



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,937	08/04/2003	Jack J. Johnson	33472/1	5798

7590 09/13/2005

Geophonic Networks Inc  
158 Chateau Theiry Avenue  
Madison Av, NJ 07940

EXAMINER
----------

BORISSOV, IGOR N

ART UNIT	PAPER NUMBER
----------	--------------

3639

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/633,937

Applicant(s)

JOHNSON ET AL.

Examiner

Igor Borissov

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Preliminary Note*

In a Petition to Make Special of 1/15/2004 the Applicant made a preliminary election designating Claims 1-35 and 49-95 as currently pending in the application. Accordingly, Claims 49-95 are withdrawn from further consideration by the examiner, as being drawn to a non-elected invention.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 2, 3, 20-35 and 37-38 are rejected under 35 U.S.C. 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 2, 21 and 37** recite the following limitation: "in which at least one customer includes at least one end user". However, the independent Claims 1, 20 and 36, which Claims 2, 21 and 37 depend on, do not require the presence of the customer, thereby making Claims 2, 21 and 37 confusing.

**Claim 20** recites the following limitation: "c. in *the* moderating computer of the first control computer". There is insufficient antecedent basis for this limitation in the Claim.

The remaining Claims are rejected as being dependent on the rejected Claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibley, Jr. (US 4,677,552).**

*Independent Claims*

Sibley, Jr. (Sibley) teaches a method and system for international commodity trade exchange, comprising:

**Claims 1 and 36,**

receiving offers in the central exchange host (moderating computer) to provide oil or gasoline (Fig. 8), processing said offers in accordance with auction rules, and storing processed data (C. 3, L. 4-15; C. 5, L. 52-60);

transmitting at least a portion of said processed data to at least a portion of participants of the auction (C. 12, L. 14-18);

determining a winner (participating in the auction indicates "designating" step) (C. 12, L. 14-18).

While Sibley teach bidding for providing oil and gasoline, Sibley does not specifically teach electric power or natural gas. However, it is old and well known that electric power or natural gas as well as oil and gasoline are used as energy source. Therefore, it would have been obvious to one having ordinary skill in art the time the invention was made to modify Sibley to include that said bids for providing energy include bids for providing electric power or natural gas, because it would advantageously allow participants to choose a source of energy which is the most suitable for a particular geographical area.

**Claim 20.**

receiving offers in the central exchange host (moderating computer) to provide oil or gasoline (Fig. 8), processing said offers in accordance with auction rules, and storing processed data (C. 3, L. 4-15; C. 5, L. 52-60);

transmitting at least a portion of said processed data to a local exchange computer (first control computer) (C. 6, L. 30-33);

Art Unit: 3639

transmitting at least a portion of said processed data from the local exchange computer to at least a portion of participants of the auction (C. 12, L. 14-18);

determining a winner (participating in the auction indicates "designating" step) (C. 12, L. 14-18).

While Sibley teach bidding for providing oil and gasoline, Sibley does not specifically teach electric power or natural gas. However, it is old and well known that electric power or natural gas as well as oil and gasoline are used as energy source.

Therefore, it would have been obvious to one having ordinary skill in art the time the invention was made to modify Sibley to include that said bids for providing energy include bids for providing electric power or natural gas, because it would advantageously allow participants to choose a source of energy which is the most suitable for a particular geographical area.

#### Dependent Claims

**Claims 2, 21 and 37.** Said method and system, wherein the at least one customer includes at least one user (C. 3, L. 4-15). Sibley does not specifically teach that said user is the *end* user. However, the specification does not provide any indication of the advantage of the user being the *end* user. Without such indication, it appears that *end* user is obvious variation of the user of the auction.

**Claims 3, 22 and 38.** See reasoning applied to Claims 2, 21 and 37.

**Claims 4, 23 and 39.** Conducting a trade of energy via the auction indicates ability to purchase (designate supplier) energy from a plurality of energy providers (participants of the auction).

**Claims 5, 13, 14, 24, 29, 30, 44 and 45.** Conducting a trade of energy via the auction indicates ability to supply the contracted volume of energy.

**Claims 6, 15, 25, 31 and 46.** Said method and system wherein the auction rules include bid formulation requirements specifying the required elements that must be reflected in the bid for the moderating computer to consider the bid valid (conducting the auction under the U. S. trading rules enforced by the Securities and Exchange Commission) (C. 5, L. 52-60).

**Claims 7 and 41.** Said method, in which the bid formulation requirements specify that all bids indicate the quantity of energy and a specific price (C. 7, L. 66-67).

**Claims 9 and 12.** See reasoning applied to Claim 1.

**Claims 10, 27 and 42.** Receiving decision rules and processing at least a portion of the first bidding data and the decision rules, and designating at least a first energy provider (C. 3, L. 4-15; C. 5, L. 52-60).

**Claim 17.** Conducting a trade of energy via the auction indicates contracting for energy.

**Claims 19, 34, 35 and 48.** Said method and system in which at least a portion of the processing and communications functions of the central host (moderating computer) or the local exchange computer (first control computer) are performed by at least one adjunct computer (C. 6, L. 30-33).

**Claim 33.** See reasoning applied to Claim 20.

**Claims 8, 18, 26, 32 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibley in view of Ausubel (US 6,026,383).**

**Claims 8, 18, 26, 32 and 47.** Sibley teaches all the limitations of Claims 8, 18, 26, 32 and 47, except specifically teaching transmitting historical energy usage data associated with the at least one reseller, or with the at least one customer, to at least a portion of the plurality of energy providers.

Ausubel teaches a method and system for conducting a dynamic auction for multiple objects, wherein participants receive bidding history information regarding other participants (C. 9, L. 22-28).

It would have been obvious to one having ordinary skill in art the time the invention was made to modify Sibley to include transmitting historical energy usage data associated with the at least one reseller, or with the at least one customer, to at least a portion of the plurality of energy providers, as disclosed in Ausubel, because it would advantageously allow the participants to estimate each other's demand or supply curve

Art Unit: 3639

which is needed for making trading decisions, as specifically stated in Ausubel (C. 3, L. 53-65).

**Claims 11, 28 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sibley in view of Mistr, Jr. (US 5,794,212).**

**Claims 11, 28 and 43.** Sibley teaches all the limitations of Claims 11, 28 and 43, except specifically teaching notifying a first DISCO (distributor) serving the at least one reseller, or serving the at least one customer, of the designation of at least a first designated provider.

Mistr, Jr. (Mistr) teaches a method and system for conducting transactions between energy suppliers, buyers and transmission suppliers (distributors), wherein information regarding said energy transaction is communicated to all parties (Abstract).

It would have been obvious to one having ordinary skill in art the time the invention was made to modify Sibley to include notifying a distributor serving the at least one reseller, or serving the at least one customer regarding energy transaction, as disclosed in Mistr, because it would advantageously allow to identify and analyze the available transmission paths, thereby providing cost-efficient movement of energy, as specifically stated in Mistr (C. 4, L. 55-58).

### ***Conclusion***

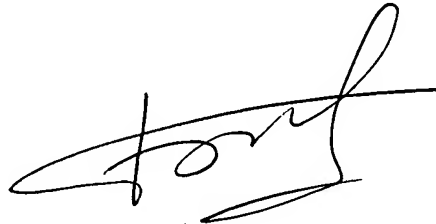
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3639

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Igor Borissov  
Patent Examiner  
Art Unit 3639

A handwritten signature in black ink, appearing to read 'Igor Borissov', with a stylized, flowing script.

IB

8/29/2005